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In re Application of
John H. Vrzalik
Application No. 08/767,291
Filed: December 16, 1996
Attorney Docket No. 7030301.1900

ON PETITION

SUBSTITUTE DECISION

This is a substitute decision on the petition under 37 C.F.R. § 1.137(b), filed September 21, 1998, to revive the above-identified application.

The decision rendered February 18, 1999 dismissing the petition is **VACATED** in favor of the petition filed in Application No. 08/904,121 under 37 C.F.R. § 1.137(b) on December 9, 1997.

Application No. 08/767,291 became abandoned for failure to timely reply to the Final Office action mailed January 31, 1997. A three month extension of time was obtained pursuant to the provisions of 37 CFR 1.136 (a). Accordingly, this application became abandoned on May 31, 1997. A Notice of Abandonment was mailed on September 9, 1997.

On July 31, 1997, in response to the abandonment of Application No. 08/767,291, petitioner filed a File Wrapper Continuation application, which incidentally has been accorded Application No. 08/904,121. As there was no copendency, the FWC application filed July 31, 1997 was improper. Although Application No. 08/904,121 was not abandoned, on December 9, 1997, petitioner incorrectly filed a petition to revive. Until now, because that petition was incorrectly labeled, it has remained unmatched to the abandoned file and only now receives consideration.

In view of the above, the decision rendered February 18, 1999 is vacated and the petition filed December 9, 1997 will be treated as a petition to revive in the instant application and is hereby **GRANTED**.

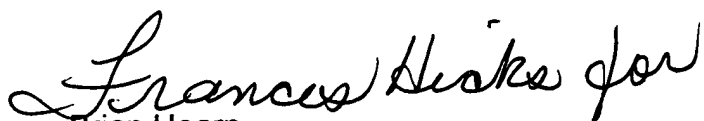
The Continuing Prosecution Application filed September 21, 1998 will not be processed. In light of the circumstances, this application is being revived for purposes of continuity with the FWC filed July 31, 1997.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuing application.

Petitioner requests that all future correspondence regarding this application be directed to him. However, since there is no indication that petitioner was ever empowered to prosecute the instant application, the request to change the address of record cannot be changed. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This file is being forwarded to Technology Center 3600 for processing with FWC Application No. 08/904,121.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Patricia FL Faison at (703) 305-4497.



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